

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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XIAOLING REN and CHEN SHAO,

Plaintiffs,

-against-

ARCADIA HEALTH PHARMACY, CORP.,
YUAN KING YUNG a/k/a RIKCY YUNG,
JIA YING HE, DORIS ZHANG, JOHN WANG,
and John Doe and Jane Doe,

Defendants.

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CIVIL ACTION No.:
1:20-cv-01470(WFK)(RML)

**ANSWER TO AMENDED
COMPLAINT WITH
COUNTERCLAIMS**

Defendants Arcadia Health Pharmacy, Corp., and Yuan King Yung (the “Defendants”), through their attorneys, HUANG, CHEN & WU PLLC, by way of Answer to Plaintiffs' Amended Complaint (“Complaint”), allege as follows:

INTRODUCTION

1. Defendants deny each and every allegation contained in Paragraph 1 of the Complaint.
2. Defendants deny each and every allegation contained in Paragraph 2 of the Complaint.
3. Defendants deny each and every allegation contained in Paragraph 3 of the Complaint.
4. Defendants deny each and every allegation contained in Paragraph 4 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

JURISDICTION AND VENUE

5. Defendants deny each and every allegation contained in Paragraph 5 of the Complaint.

6. Defendants deny each and every allegation contained in Paragraph 6 of the Complaint.

PLAINTIFF

7. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint, except admitting that Plaintiff Ren worked at the pharmacy at 42-35 Main Street, Unit 1L, Flushing, New York 11355.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint, except admitting that Plaintiff Shao worked at the pharmacy at 42-35 Main Street, Unit 1L, Flushing, New York 11355.

CORPORATE DEFENDANT

Entity Defendant Arcadia Health Pharmacy, Corp.

9. Defendants deny each and every allegation contained in Paragraph 9 of the Complaint, except admitting that Arcadia Health Pharmacy, Corp. (“Arcadia”) was incorporated under the law of New York State is located at 42-35 Main Street, Unit 1L, Flushing, New York 11355.

10. Defendants deny each and every allegation contained in Paragraph 10 of the Complaint except admitting that Arcadia is located at 42-35 Main Street, Unit 1L, Flushing, New York, 11355.

11. Defendants deny each and every allegation contained in Paragraph 11 of the Complaint.

12. Defendants deny each and every allegation contained in Paragraph 12 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

13. Defendants deny each and every allegation contained in Paragraph 13 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

14. Defendants deny each and every allegation contained in Paragraph 14 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

INDIVIDUAL DEFENDANTS

15. Defendants deny each and every allegation contained in Paragraph 15 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

16. Defendants deny each and every allegation contained in Paragraph 16 of the Complaint.

17. Defendants deny each and every allegation contained in Paragraph 17 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

18. Defendants deny each and every allegation contained in Paragraph 18 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

19. Defendants deny each and every allegation contained in Paragraph 19 of the Complaint.

20. Defendants deny each and every allegation contained in Paragraph 20 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

21. Defendants deny each and every allegation contained in Paragraph 21 of the Complaint.

STATEMENT OF FACTS

22. Defendants deny each and every allegation contained in Paragraph 22 of the Complaint.

23. Defendants deny each and every allegation contained in Paragraph 23 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

24. Defendants deny each and every allegation contained in Paragraph 24 of the Complaint except admitting that Plaintiff Ren worked at the pharmacy at 42-35 Main Street, Unit 1L, Flushing, New York 11355.

25. Defendants deny each and every allegation contained in Paragraph 25 of the Complaint.

26. Defendants deny each and every allegation contained in Paragraph 26 of the Complaint.

27. Defendants deny each and every allegation contained in Paragraph 27 of the Complaint.

28. Defendants deny each and every allegation contained in Paragraph 28 of the Complaint.

29. Defendants deny each and every allegation contained in Paragraph 29 of the Complaint.

30. Defendants deny each and every allegation contained in Paragraph 30 of the Complaint.

31. Defendants deny each and every allegation contained in Paragraph 31 of the Complaint.

32. Defendants deny each and every allegation contained in Paragraph 32 of the Complaint.

33. Defendants deny each and every allegation contained in Paragraph 33 of the Complaint.

34. Defendants deny each and every allegation contained in Paragraph 34 of the Complaint.

35. Defendants deny each and every allegation contained in Paragraph 35 of the Complaint.

36. Defendants deny each and every allegation contained in Paragraph 36 of the Complaint.

37. Defendants deny each and every allegation contained in Paragraph 37 of the Complaint except admitting that Plaintiff Shao worked at the pharmacy at 42-35 Main Street, Unit 1L, Flushing, New York 11355.

38. Defendants deny each and every allegation contained in Paragraph 38 of the Complaint.

39. Defendants deny each and every allegation contained in Paragraph 39 of the Complaint.

40. Defendants deny each and every allegation contained in Paragraph 40 of the Complaint.

41. Defendants deny each and every allegation contained in Paragraph 41 of the Complaint.

42. Defendants deny each and every allegation contained in Paragraph 42 of the Complaint.

43. Defendants deny each and every allegation contained in Paragraph 43 of the Complaint.

44. Defendants deny each and every allegation contained in Paragraph 44 of the Complaint.

45. Defendants deny each and every allegation contained in Paragraph 45 of the Complaint.

46. Defendants deny each and every allegation contained in Paragraph 46 of the Complaint.

47. Defendants deny each and every allegation contained in Paragraph 47 of the Complaint.

48. Defendants deny each and every allegation contained in Paragraph 48 of the Complaint.

49. Defendants deny each and every allegation contained in Paragraph 49 of the Complaint.

50. Defendants deny each and every allegation contained in Paragraph 50 of the Complaint.

51. Defendants deny each and every allegation contained in Paragraph 51 of the Complaint.

52. Defendants deny each and every allegation contained in Paragraph 52 of the Complaint.

53. Defendants deny each and every allegation contained in Paragraph 53 of the Complaint.

54. Defendants deny each and every allegation contained in Paragraph 54 of the Complaint.

55. Defendants deny each and every allegation contained in Paragraph 55 of the Complaint.

COLLECTIVE ACTION ALLEGATIONS

56. Defendants deny each and every allegation contained in Paragraph 56 of the Complaint.

57. Defendants deny each and every allegation contained in Paragraph 57 of the Complaint.

58. Defendants deny each and every allegation contained in Paragraph 58 of the Complaint.

59. Defendants deny each and every allegation contained in Paragraph 59 of the Complaint.

60. Defendants deny each and every allegation contained in Paragraph 60 of the Complaint.

61. Defendants deny each and every allegation contained in Paragraph 61 of the Complaint.

62. Defendants deny each and every allegation contained in Paragraph 62 of the Complaint.

63. Defendants deny each and every allegation contained in Paragraph 63 of the Complaint.

64. Defendants deny each and every allegation contained in Paragraph 64 of the Complaint.

65. Defendants deny each and every allegation contained in Paragraph 65 of the Complaint.

COUNT I
(Fair Labor Standards Act – Overtime)

66. Defendants deny each and every allegation contained in Paragraph 66 of the Complaint except as otherwise pleaded herein.

67. Defendants deny each and every allegation contained in Paragraph 67 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

68. Defendants deny each and every allegation contained in Paragraph 68 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

69. Defendants deny each and every allegation contained in Paragraph 69 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

70. Defendants deny each and every allegation contained in Paragraph 70 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

71. Defendants deny each and every allegation contained in Paragraph 71 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

COUNT II
(New York Labor Law – Overtime)

72. Defendants deny each and every allegation contained in Paragraph 72 of the Complaint except as otherwise pleaded herein.

73. Defendants deny each and every allegation contained in Paragraph 73 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

74. Defendants deny each and every allegation contained in Paragraph 74 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

75. Defendants deny each and every allegation contained in Paragraph 75 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

76. Defendants deny each and every allegation contained in Paragraph 76 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

COUNT III
(New York Labor Law – Spread of Hours)

77. Defendants deny each and every allegation contained in Paragraph 77 of the Complaint except as otherwise pleaded herein.

78. Defendants deny each and every allegation contained in Paragraph 78 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

79. Defendants deny each and every allegation contained in Paragraph 79 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

80. Defendants deny each and every allegation contained in Paragraph 80 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

81. Defendants deny each and every allegation contained in Paragraph 81 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

COUNT IV
(Violation of New York Labor Law – Time of Hire Wage Notice Requirement)

82. Defendants deny each and every allegation contained in Paragraph 82 of the Complaint except as otherwise pleaded herein.

83. Defendants deny each and every allegation contained in Paragraph 83 of the Complaint.

84. Defendants deny each and every allegation contained in Paragraph 84 of the Complaint.

AFFIRMATIVE DEFENSE

FIRST SEPARATE DEFENSE

85. The Complaint fails to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

86. This action must be dismissed by reason of insufficiency of process.

THIRD SEPARATE DEFENSE

87. The Court lacks personal jurisdiction over the answering Defendants because the Summons and Complaint was not properly served upon the answering Defendants.

FOURTH SEPARATE DEFENSE

88. Plaintiffs' state claims are, in whole or in part, barred when the Plaintiffs failed to comply with pre-litigation requirements pursuant to state laws.

FIFTH SEPARATE DEFENSE

89. Plaintiffs were not “covered” employees under the Fair Labor Standards Act.

SIXTH SEPARATE DEFENSE

90. Plaintiffs' claims are barred, precluded, or otherwise limited by the doctrine of unclean hands.

SEVENTH SEPARATE DEFENSE

91. The Court shall not employ supplemental jurisdiction over Plaintiff's New York Labor Law claims when Plaintiff fails to state a claim under the Fair Labor Standards Act.

EIGHTH SEPARATE DEFENSE

92. Plaintiffs' claims are, in whole or in part, barred due to the statute of limitations.

NINTH SEPARATE DEFENSE

93. Plaintiffs' claims are barred, precluded, or limited by the doctrine of laches.

TENTH SEPARATE DEFENSE

94. Plaintiffs' claims are barred, precluded, or limited by the doctrine of waiver.

ELEVENTH SEPARATE DEFENSE

95. At all relevant times, Defendant was not a covered employer of Plaintiff within the definitions set forth by the Fair Labor Standards Act and New York Labor Law.

TWELFTH SEPARATE DEFENSE

96. Plaintiffs' claims are barred, precluded, or limited by the doctrine of estoppel.

THIRTEENTH SEPARATE DEFENSE

97. Plaintiffs' claims are barred, precluded, or limited in whole or in part because the labor law violations alleged by the Plaintiffs were caused in part or in whole by Plaintiffs' own actions.

FOURTEENTH SEPARATE DEFENSE

98. Plaintiffs' claims are barred, precluded, or limited in whole or in part because Plaintiffs used on their job time in the workplace to undertake their own business, in direct competition with Defendant Arcadia.

99. The answering Defendants reserve their rights to assert additional affirmative defenses as such additional defenses become known through investigation, discovery, or otherwise.

COUNTERCLAIM
COUNT I
(Faithless Servant)

Defendant Arcadia Health Pharmacy, Corp. ("Arcadia"), by way of counterclaims against Plaintiffs, says:

100. This Court has jurisdiction over the Counterclaims under 28 U.S.C. § 1367.

101. Plaintiffs, having brought suit against Defendant Arcadia, have submitted themselves to the jurisdiction of this Court.

102. Without Defendant Arcadia's permission, Plaintiffs used on their job time to undertake their own business to sell certain medical merchandise, in direct competition with Defendant Arcadia Pharmacy.

103. Plaintiffs surreptitiously exploited Defendant Arcadia 's time, resources, and reputation in order to conduct their own business.

104. Plaintiffs' conduct caused lost revenue for Defendant Arcadia.

105. Plaintiffs' conduct misled customers to believe Plaintiffs' merchandise was sold by Defendant Arcadia and safe for use and consumption with US authorities' approval.

106. Plaintiffs' sale of their medical merchandise was illegal and upon information and belief, their merchandise was not approved by US authorities to sell in the United States.

107. Plaintiffs' misconduct constitutes a breach of a duty of loyalty or good faith sufficient to warrant forfeiture of their claimed compensation for serving Defendant Arcadia.

108. Plaintiffs' misconduct was disloyal and faithless to Defendant Arcadia.

109. Therefore, Plaintiffs have forfeited any right to receive any benefits of any service they performed for Defendant Arcadia.

110. Based on the foregoing, Defendant Arcadia has sustained damages, which are to be determined at trial.

DEMAND FOR A JURY

The answering Defendants demand a trial by jury on all issues.

WHEREFORE, Defendants respectfully demand a judgment as follows:

1. Dismissing the Plaintiffs' Complaint with prejudice in its entirety;
2. Granting Defendants' counterclaim;
3. Awarding Defendants with costs and disbursements and reasonable attorney's fees; and

4. Granting such other and further relief as the Court may deem just and proper.

Dated: December 15, 2020
Queens, New York

Respectfully submitted,
Huang, Chen & Wu PLLC

/s/Song Chen
Song Chen, Esq. (SC-4130)
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